

In its letter of March 20, 2008, endorsed for filing effectively, concedes that the Order from which an appeal was taken in this matter, 07 Civ. 6170, is a non-final Order. The same is also true as to the Order from which an appeal is taken in 08 Civ 2554 (appeal from

Order of Nov. 26,
2007.) Bott

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appeals are dismissed
without prejudice to the
filing of an appeal from
a Final Judgment, apparently entered on
or about March 19, 2008. SO ORDERED

March 20, 2008

dated

4-2-08

VIA FEDEX AND ECF
Hon. P. Kevin Castel
United States District Court for the Southern District of New York
500 Pearl Street
New York, NY 10007

Re: In re Best Payphones, Inc. (07 Civ. 6170) (PKC)

IN RE Best Payphones, 08 Civ. 2554 (PKC)

Dear Judge Castel:

DOCKET IN BOTH
CASES.

This letter is written on behalf of claimant-appellee Manhattan Telecommunications Corporation d/b/a MetTel ("MetTel").

Earlier today, we received an ECF notice of Your Honor's memorandum endorsed dated February 29, 2008. After referring to an order entered last August staying the appeal of Best Payphones, Inc. ("Best") until entry of final judgment relating to its setoffs, the memorandum endorsed directed the parties "to show cause in writing by March 11, 2008 why the appeal ought not be dismissed without prejudice to refiling upon entry of final order or final judgment." Although the memorandum endorsed was signed in February, the docket sheet shows that it was not entered until today. (A copy of the electronic docket sheet is annexed hereto as Exhibit A.)

By the time the memorandum endorsed came to MetTel's attention, the March 11 deadline for showing cause why the appeal should not be dismissed had already expired. We therefore request permission to submit our response now.

A final judgment was entered yesterday with respect to all of the claims and setoffs asserted in the underlying bankruptcy proceeding. (A copy of the final judgment is annexed hereto as Exhibit B.) Accordingly, there is no longer any reason why Best's appeal should not proceed, and, instead of dismissing Best's appeal, it is respectfully submitted that a briefing schedule for Best's appeal should be set.

Respectfully yours,

Fran M. Jacobs

Fran M. Jacobs

Enclosures

cc: Larry I. Glick, Esq. (by FedEx and w/encls.)

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| DOCUMENT |
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| DOC #: _____ |
| DATE FILED: <u>4/3/08</u> |

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